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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,223	09/22/2005	Mikio Tanaka	0037-0225PUS1	6772
2292 7590 05/25/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HUYNH, LOUIS K	
			ART UNIT 3721	PAPER NUMBER
			NOTIFICATION DATE 05/25/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,223	<b>Applicant(s)</b> TANAKA ET AL.	
	<b>Examiner</b> Louis K. Huynh	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/1/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. Figure 11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1, line 12: "filling of air" lacks proper antecedent basis.
- Claim 1, lines 12-13: "the disposing of the article in the article storage space" lacks proper antecedent basis.
- Claim 1, line 13: "the closing of the article storage opening" lacks proper antecedent basis.
- Claim 2, line 2: "to be in a hermetic state" is indefinite because it is unclear as what would make the article storage space hermetic since there is only the article

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storage opening is adhered while the sides of the article storage space are not mentioned as being closed at all.

- Claim 2, lines 4-5: “by sucking out the air in the article storage space or by filling gas like air or an inert gas in the article storage space” is indefinite because it is unclear as to what structure of the package would enable the claimed function.
- Claim 3, line 12: “the above steps” renders the claim indefinite because it is unclear the steps are the processes or the actual act that performs a task such as folding, filling, etc. Furthermore, there is no step in the second process.
- Claim 5, line 2: “small cells 11” render the claim indefinite because it is unclear as to what the small cells 11 are.
- Claim 8 is indefinite because it is unclear whether the adjusting nozzle is a part of the claimed apparatus or is a part of the cushioning package.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by AAPA (Applicant Admitted Prior Art).

- AAPA at page 1 of the specification discloses a cushioning package (101) that meets all of applicant's claimed subject matter; in particular, the AAPA package comprises: overlapped flexible resin sheets having small cells (102) filled with

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air, an article storage space (103) receiving an article (104), and a sealed article storage opening; wherein pressure in the article storage space is fully capable of being adjusted by removing air from the article storage space.

6. Claims 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated Farquharson (US 3,340,669).

- With respect to claim 3, Farquharson discloses a method of manufacturing a cushioning package that meets all of applicant's claimed subject matter; in particular, the method of Farquharson comprises the sequential steps of: folding a cushioning sheet (6) to form an article storage space (12) and small cells (10, 14) by sealing overlapped portions (16) of the sheets (6), depositing an article (18) into the article storage space (12) through an article storage opening of the article storage space, filling air into the small cells (10, 14) and sealing the edges of the overlapped sheet (6) to enclose the article in the article storage space (12) and the air in the small cells (10, 14).
- With respect to claim 4, the sheet (6) used in the method of Farquharson is an elongated sheet moving in a longitudinal direction and the folding step includes folding the sheet longitudinally and sealing the overlapped sheet to form the article storage space (12) with the article storage opening.
- With respect to claim 5, Farquharson discloses an apparatus for manufacturing a cushioning package that meets all of applicant's claimed subject matter; in particular, the apparatus of Farquharson comprises: an article storage space

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forming unit including a folding unit for folding a sheet (6) to form an M-shaped in cross section and a transverse sealer for forming transverse seal (16) on the M-shaped overlapped sheet in order to form the article storage space having an article storage opening and to form small cells (10, 14), an article depositing unit for loading an article (18) into the article storage space (12), an air filling unit for inflating the small cells (10, 14) with air.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farquharson (US 3,340,669) in view of Cope (US 4,877,334).

- With respect to claim 6, the apparatus of Farquharson meets all of applicant's claimed subject matter but lacks the specific teaching of an air passage in fluid communication with the small cells, a reverse-flow prevention member and an air nozzles. Cope discloses an old and well-known apparatus for inflating a cushioning package (70) comprising an air nozzle (78) that is inserted into inflation tubes (72, 73) of the cushioning package. Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have modified the apparatus of Farquharson by having provided cushioning package

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with an inflation tube so that the small cells (10, 14) can be inflated using an air nozzle, as taught by Cope. Regarding the limitation of the reverse-flow prevention member, it is known and well within the knowledge of an ordinary skilled person in the art to clamp the inflation tube against the air nozzle in order to prevent separation of the inflation tube from the air nozzle when pressure inside the small cells is substantially equal to the pressure of the air nozzle; therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have modified the apparatus of Farquharson by having provided a clamp for clamping the inflation tube to the air nozzle in order to prevent the cushioning package from being blown away.

- With respect to claim 8, as best understood, the pressure in the article storage space can be adjusted by reducing the pressure in the small cells, thus the inflation tube attached to the cushioning package in the modified apparatus of Farquharson could be used as an adjusting nozzle.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

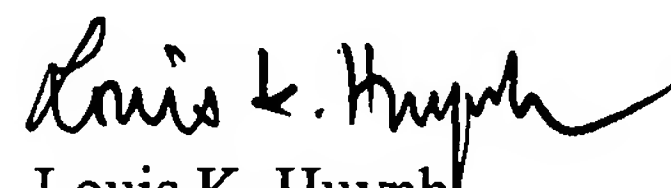


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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 21, 2007

  
Louis K. Huynh  
Primary Examiner  
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